IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20091 of 2004

Between:

P. Bhaskar Reddy, S/o. Mruthunjaya Reddy,
R/o. Plot No.168, East Kalyanpuri, Uppal, Hyderabad.

..... PETITIONER

AND

1 Chief Engineer (R& B), Roads Erramanzil, Hyderabad.
2 Superintending Engineer (R&B), Nalgonda Circle, Nalgondal.
3 Executive Engineer (R& B), Bhongir Division, Bhongir, Nalgonda

District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to Issue any appropriate Writ, Order or direction more particularly one in the nature of a Writ of Mandamus declaring the action of the Respondents in recovering the seigniorage charges on ordinary earth from the work bills of the petitioner in respect of the work S.R. to Mothkur to Addagudur road from KM 11/0 to 13/4 under agreement No.01 of 2002- 2003 dt. 18.4.2002 entered by the Respondents with the Petitioner as illegal and void and consequently hold that the seigniorage charges on ordinary earth cannot be recovered from the bills under the said agreement.

Counsel for the Petitioner: MR.A.RAMALINGESWAR RAO

Counsel for the Respondents : GP FOR ROADS & BUILDINGS

The Court, at the stage of admission, made the following :

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ORAL ORDER

The petitioner has been awarded the contract work of laying road from" S.R to Mothkur to Addagudur road from KM 11/0 to 13/4" in Nalgonda District. He entered into an agreement with the 2nd respondent on 18-04-2002. The work was estimated @ Rs.16, 68,251.40. While making payment of the bill to the petitioner, the respondents deducted seigniorages on the ordinary earth.

The contention of the petitioner is that there is no condition in the agreement for deduction of seigniorage charges on ordinary earth. Therefore, the petitioner claims that the action of the respondents in deducting the said amount is illegal. He challenged the same in this writ petition.

The learned counsel for the petitioner brought to the notice of this court a Judgment of the Division Bench of this Court, in W.P.No.2054 of 2004, wherein a Division Bench passed the following Order:

"Following the said view we allow the writ petition directing the respondents not to collect any seigniorage charges from the petitioner for digging ordinary earth in respect of execution of contract work covered under the agreement. No costs. However, we make it clear that if the tax is included in the estimate on the earthwork component, it can be deducted as per G.O.Ms.No.23, dated 05-03-1999."

In view of the above said order of the Division Bench, the writ petition is disposed of directing the respondents not to collect the seigniorage charges on the ordinary earthwork, in the absence of a condition in the agreement entered into between the parties and in the absence of inclusion of seigniorage charges while assessing the cost of the work entrusted to the petitioner.

The writ petition is accordingly disposed of. No order as to costs.

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Dr.G.YETHIRAJULU,J

16th NOVEMBER 2004

Note:

Issue CC in

Two(2) days.

(B/O)

*TSNR

TO

1 Chief Engineer (R& B), Roads Erramanzil, Hyderabad.
2 Superintending Engineer (R&B), Nalgonda Circle, Nalgondal.
3 Executive Engineer (R& B), Bhongir Division, Bhongir, Nalgonda

District.

4 2 CCs to G.P for R&B, High Court Buildings, Hyderabad.

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